

REMARKS

The pending final Office Action addresses claims 1-7, 9-13, 15-18, 20, and 21. Claims 1-7, 9-13, and 15-18 are rejected, and claims 20 and 21 are withdrawn from consideration. Reconsideration is respectfully requested in view of the amendments and remarks submitted herewith.

At the outset, Applicants thank Examiner Dornbusch for extending the courtesy of a telephone interview on September 29, 2010 to Applicants' undersigned representative. During the interview the Examiner *agreed* that the claims *overcome* all pending rejections.

Rejections Pursuant to 35 U.S.C. §103

Claims 1-7, 9-13, and 15-18 are rejected pursuant to 35 U.S.C. §103(a) as being obvious over U.S. Publication No. 2004/0204715 of Evans in view of U.S. Patent No. 3,581,956 of Reid. As noted above, the Examiner has agreed that the unamended claims overcome this rejection. Specifically, the Examiner has agreed that the modification of Evans by either decreasing the diameter of the tip of Evans or adding an additional distal piece as taught by Reid to the distal end of the plunger assembly of Evans would not be obvious to one of ordinary skill in the art as this modification would render the distal end of the plunger assembly ineffective for its purpose of sealing and pushing the bone cement through the tube assembly. If the diameter of the distal end of the shaft (112) of the plunger assembly that is beyond the groove (118) formed in the shaft of the Evans device was decreased, the o-ring (150) that sits in the groove would no longer provide a seal between the shaft and the inside of the tube assembly. If an additional distal piece as taught by Reid was added to the distal end of the plunger assembly of Evans, the plunger assembly would be less effective in pushing the bone cement through the tube assembly, and would no longer be able to prime the tube assembly prior to dispensing of the bone cement. Rather than priming the tube assembly, the additional piece added to the Evans's plunger would have a smaller diameter than the rest of the plunger, thus allowing the bone cement to move proximally around that additional distal piece rather than be primed by the plunger.

Accordingly, claims 1 and 9, and claims 2-7, 10-13, and 15-18 which depend therefrom, distinguish over Evans and Reid and represent allowable subject matter.

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Conclusion

Applicants submit that all pending claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

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Respectfully submitted,

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